

**PROPERTY ASSESSMENT APPEAL BOARD  
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-10141R

Parcel No. 060/07824-006-000

**Patrick Knueven,**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

This appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on February 18, 2020. Patrick Knueven was self-represented. Assistant County Attorney David Hibbard represented the Polk County Board of Review.

Patrick and Mary Knueven own a residential property located at 1230 Williams Street, Des Moines. The property's January 1, 2019, assessment was set at \$127,300, allocated as \$13,600 in land value and \$113,700 in dwelling value. (Exs. A & B).

Patrick Knueven petitioned the Board of Review contending the property was assessed for more than the value authorized by law and there was an error in the assessment. Iowa Code § 441.37(1)(a)(2 & 4) (2019). The Board of Review denied the petition. (Ex. B).

Knueven then appealed to PAAB claiming inequity in the assessment, error in the assessment, and fraud or misconduct in the assessment. § 441.37(1)(a)(1, 4 & 5).

**General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act

apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code Rule 701–126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. *Id.*; see also *Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

### **Findings of Fact**

The subject property is a two-story home built in 1979. It has 1456 square feet of gross living area, a full unfinished basement, and a two-car detached garage. It is listed in normal condition with average-quality construction (grade 4+00). In addition to 21% physical depreciation applied to the dwelling and 39% to the garage; a 10% economic obsolescence adjustment was applied to the improvements for the assessment. The site is 0.173 acres.

Knueven purchased the subject in 1991. (Ex. A). He has been a landlord for 49 years, and believes he is knowledgeable of property values due to this experience.

He asserts the Board of Review relied on five comparables to set the subject's assessed value. A summary of the five comparables is made in the following table. (Ex. 3).

Address	Lot Size (SF)	Gross Living Area (SF)	2019 Assessed Values (AV)	Sale Date	Sale Price
Subject	7524	1456	\$127,300	NA	NA
1 – 4149 Knob Hill Dr	8900	1016	\$150,700	10/2017	\$125,000
2 – 4131 Knob Hill Dr	9029	1017	\$145,600	3/2017	\$150,000

3 – 1224 Williams St	8983	2052	\$140,600	4/2017	\$139,000
4 – 4111 Mahaska Ave	38192	1137	\$121,300	7/2014	\$138,900
5 – 4107 E Euclid Ave	7500	1372	\$173,900	10/2018	\$165,000

Knueven indicated Comparables 1, 2, and 4 are one-story homes, Comparable 3 is a duplex, and Comparable 5 is located out of the neighborhood. He asserts the Board of Review requires comparables similar in design, size, and location, and believes they are not living up to their own standards. In response to the lack of similarity of these properties, the Board of Review submitted a record of sales search query of two-story, single family properties in the subject's DM13 neighborhood that sold in 2017 and 2018, but the search returned no sale results. (Ex. E).

Further, the Board of Review stated these sales comparables were not used to set the subject property's assessment. The record shows the comparables were provided by an appraiser from the Assessor's Office in support of the assessed value and were not used to value the property. The comparables were adjusted for differences as compared to the subject. The sales show a value of \$135,200 for the subject. (Ex. 3, pg. 4). The Appraiser Analysis shows the cost approach indicated a value of \$127,300, which is the current assessed value. (Ex. 2). Further, the Appraiser Analysis states Knueven did not provide any market comparables or support to the Board of Review. Similarly, he did not provide any market comparables to PAAB.

Knueven testified regarding the percentage change in assessed values for each of the five properties. He stated his property had a larger percentage change than any of the five between 2017 to 2019, and he asserts this demonstrates inequity in the assessment.

He specifically believes Comparable 3 (1224 Williams Street) went up less than 1% per year since 2011. That comparable, 1224 Williams Street, is a duplex located next door to the subject. The assessments of the two properties are summarized in the table below. The table summarizes the annualized percentage change from each of the years listed to the 2019 assessed value. (Exs. F & G).

Property		2003	2005	2011	2017	2019
Subject						
	Assessed Value	\$87,480	\$96,900	\$105,000	\$102,500	\$127,300
	Annualized % Change to 2019	2.8%	2.2%	2.7%	12.1%	
1224 Williams St						
	Assessed Value	\$98,880	\$115,600	\$127,700	\$125,700	\$140,600
	% Change	2.6%	1.5%	1.3%	5.9%	

The table shows the subject generally has a higher percentage increase than 1224 Williams Street. That property sold in 2017 for \$139,000. (Ex. G). However, we note the annualized percentage change since 2003 is very similar.

Knueven testified the subject is currently rented for \$950 per month. He explained that he often uses a multiplier of 100 times the gross monthly rent to estimate the value of a property. Therefore, he believes the subject property's value is approximately \$95,000. He believes this to be a very accurate method of valuing a property. He testified that 15 to 20 years ago he refinanced some properties and using the formula above was nearly able to replicate the appraised values of the properties. However, he offered no support for these conclusions or any data regarding the properties, such as property type or location, to determine their comparability to the subject. He also gave no support that the multiplier has not changed in 15 to 20 years. Furthermore, Knueven did not offer any market evidence of the subject's market rent which would be required to develop an opinion of market value using a gross rent multiplier. Therefore, we do not find his value indication by this approach to be supported or reliable.<sup>1</sup>

<sup>1</sup> "The application of income multipliers is a direct capitalization procedure. In developing an income or rent multiplier, it is essential that the income or rent of the properties used to derive the multiplier be comparable to that of the subject and that the specific multiplier derived be applied to the same income base." Appraisal Institute, The Appraisal of Real Estate 507 (14th ed. 2013).

Knueven further testified several years ago he listed the subject for \$125,000 with Rick Wannamaker at Iowa Realty. He did not recall the dates it was listed, but testified that even after reducing the list price, he received no offers. He removed the listing and rented the property. He believes this demonstrates his property's assessment is too high.

Knueven submitted a recent City Inspection Report for the subject. (Ex. 4). The rental inspection was completed on January 17, 2020. The report lists needed repairs for the subject property, including repair of leaking pipes, installation of smoke detectors and repair of damaged siding, fascia, and trim. Knueven indicated he does not know if the needed repairs are the reason the subject property did not sell, but it could be the reason. The Board of Review explained to Knueven that he may wish to have the assessor's office inspect the subject property and determine if their records correctly identify the subject. It stated this would have no bearing on the 2019 assessed value but could affect future assessments.

### **Analysis & Conclusions of Law**

Knueven contends the subject property is inequitably assessed, that there is an error in the assessment, and that there was fraud or misconduct in the assessment. § 441.37(1)(a)(1, 4, & 5). Knueven bears the burden of proof. § 441.21(3).

Under Iowa Code section 441.37(1)(a)(4), an aggrieved taxpayer or property owner may appeal their assessment on the basis "[t]hat there is an error in the assessment." An error may include, but is not limited to, listing errors or erroneous mathematical calculations. Iowa Admin. Code R. 701-71.20(4)(b)(4).

Under Section 441.37(1)(a)(5), a taxpayer may assert there is fraud or misconduct in the assessment, which is specifically stated. "It is not necessary to show actual fraud. Constructive fraud is sufficient." *Chicago and North Western Railway Co. v. Prentis*, 161 N.W.2d 84, 97 (Iowa 1968) (citing *Pierce v. Green*, 294 N.W. 237, 255 (Iowa 1940)). Constructive fraud may include acts that have a tendency to deceive, mislead, or violate confidence, regardless of the actor's actual motive. *In Interest of C.K.*, 315 N.W.2d 37, 42 (Iowa 1982) (quoting *Curtis v. Armagast*, 138 N.W. 873, 878

(Iowa 1912)). See 37 C.J.S. *Fraud* § 5 (2020); BLACK'S LAW DICTIONARY *Fraud* (11th ed. 2019). Misconduct is defined in section 441.9 and "includes but is not limited to knowingly engaging in assessment methods, practices, or conduct that contravene any applicable law, administrative rule, or order of any court or other government authority." §§ 441.9; 441.37(1)(a)(5).

Knueven makes these two claims based on comparables selected by the Board of Review. He believes they did not follow their own rules on comparable selection. The Board of Review asserts the sales were used only in support of the assessed value that was formed using the cost approach. The record reflects those adjusted sales result in a value indication higher than the current assessment.

Through submission of a City Inspection Report, Knueven also suggests there may be errors in the subject's listing. The city inspection was conducted more than a year after the assessment date at-issue and there was no evidence indicating those conditions existed as of January 1, 2019. Additionally, without more, we are not convinced the issues noted in the Inspection Report result in a listing error as most of the issues identified are minor. Based on the foregoing, we find Knueven failed to prove there is an error in the assessment or that fraud or misconduct has occurred.

Under section 441.37(1)(a)(1), a taxpayer may claim that their "assessment is not equitable as compared with assessments of other like property in the taxing district." Knueven relies on a comparison of the rate of change in assessments in support of his claim, but comparing the rate of change in assessed value between the subject and other properties is not a recognized method for showing inequity in the assessment.

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). We find no evidence here indicating a non-uniform assessing method was used to value similarly situated properties.

Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The *Maxwell* test provides that inequity exists when, after

considering the actual values (2018 sales) and assessed values (2019) of comparable properties, the subject property is assessed at a higher portion of its actual value. *Id.* Knueven offered no comparable properties that had sold in 2018 and, as will be further discussed, he offered no reliable evidence of the subject's actual value under section 441.21. Accordingly, the *Maxwell* test cannot be completed and we find Knueven has failed to show inequity in his assessment.

Lastly, although Knueven did not raise a claim that the subject property was assessed for more than the value authorized by law to PAAB, he repeatedly testified to his belief that the property is assessed for more than its market value. However, we find the evidence in support of that assertion lacking. First, he offered no evidence of comparable sales, which is the preferred method for property valuation under Iowa law. § 441.21(1). Even if the subject's market value could not be readily established by the sales comparison approach alone, we do not find his value indication by the income approach is supported. § 441.21(2). He did not offer evidence of market rents, market capitalization rates, and we are not convinced his gross rent multiplier method results in a reliable indication of value.

### **Order**

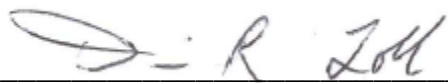
PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order<sup>2</sup> and comply with the requirements of Iowa Code section 441.37B and Chapter 17A. (2019).

<sup>2</sup> Due to the State Public Health Disaster Emergency caused by the coronavirus (COVID-19), the deadline for filing a judicial review action may be tolled pursuant to orders from the Iowa Supreme Court.



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Dennis Loll, Board Member



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Elizabeth Goodman, Board Member



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Karen Oberman, Board Member

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Polk County Board of Review by eFile

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